

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

DAVID A. RUSSELL	§	
v.	§	CIVIL ACTION NO. 6:14cv42
VERNON MITCHELL, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff David Russell, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

This lawsuit was severed out of cause no. 6:13cv966. Russell was ordered to file an amended complaint and to pay the filing fee or submit an application for leave to proceed *in forma pauperis*. When he did not do so, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice. Russell filed a response to the Report agreeing that the case should be dismissed without prejudice. Because he did not object to the Magistrate Judge's Report, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause, the Report of the Magistrate Judge, and the response filed by the Plaintiff. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert.*

*denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly


**ORDERED** that the Report of the Magistrate Judge (docket no. 4) is hereby **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**It is SO ORDERED.**

**SIGNED this 8th day of September, 2014.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE